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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

8 Arizona Broadcasters Association, *et al.*,
9 Plaintiffs,
10 v.
11 Mark Brnovich, *et al.*,
12 Defendants.

No. CV-22-01431-PHX-JJT

14 At the status hearing in this matter on October 20, 2022, the Court and the parties
15 discussed the issue of whether the matter would proceed on a motion for judgment on the
16 pleadings pursuant to Fed. R. Civ. P. 12(c) as to any or all Defendants, and the Court
17 expressed its reservation that such a course was impermissible when there were no
18 pleadings from any Defendants at that point. The Court resolved to allow the Defendants a
19 brief window—until October 24—to either file respective Answers or not, and thereafter
20 if no answer had been filed as to a specific Defendant, Plaintiffs would file for default and
21 then move for default judgment as to that Defendant, with the Court’s express conclusion
22 that in such circumstance, a default would be taken not due to any failing of counsel’s
23 duties of professional responsibility, but rather by election of their clients not to defend.
24 (Doc. 50; Tr. 10/20/22 at pp. 29-33.) Defendant Brnovich elected to file an Answer by
25 October 24, 2022, and Defendants Mitchell and Penzone elected, as their counsel had
26 represented at the hearing, not to do so. Thus resolution of this matter will proceed down
27 two tracks.

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IT IS ORDERED that the time to file an answer or other responsive pleading as extended by this Court's Order having now elapsed, Plaintiffs shall move the Clerk of Court to enter default as to Defendants Mitchell and Penzone in their official capacities by **November 29, 2022**, and then timely move the Court for default judgment thereafter as provided by rule.

IT IS FURTHER ORDERED that by **December 9, 2022**, Plaintiffs shall either move the Court for judgment as against Defendant Brnovich in his official capacity pursuant to Fed. R. Civ. P. 12(c) or file a notice indicating that the matter is ready for a Rule 16 Scheduling conference.

Dated this 22nd day of November, 2022.

Honorable John J. Tuchi
United States District Judge